



# Latino Caucus of California Counties

October 15, 2020

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**Pedro Carrillo**

The Honorable Tani Gorre Cantil-Sakauye  
Chief Justice, Supreme Court of the State of California  
350 McAllister Street, Room 1295  
San Francisco, CA 94102-4797

**Re: *Amicus Curiae Letter in Support of Petition for Review***  
*Pico Neighborhood Association, et al. v. City of Santa Monica*  
California Supreme Court, Case No. S263972  
Court of Appeal, Second Appellate District, Division Eight, Case No. B295935  
Los Angeles Superior Court Case No. BC616804

Dear Chief Justice Gorre Cantil-Sakauye,

The Latino Caucus of the California Association of Counties respectfully submits this *amicus curiae* letter, pursuant to Rule of Court 8.500(g) to urge this Court to **grant review and reverse** the Court of Appeal's dangerous, uninformed and misguided decision in *Pico Neighborhood Association, et al. v. City of Santa Monica*.

The Latino Caucus of California Counties is an organization which encourages the engagement and involvement of its board and membership, made up of Latinos elected to serve on the County Boards of Supervisors for the 58 counties in California. The Latino Caucus works collaboratively to provide solutions to county level issues and concerns, promotes Latino leaders, and provides value to the California State Association of Counties on statewide issues in areas of interest to all Californians, as well as to the Latino communities which they serve.

Our Caucus has read the *amicus curiae* letters of: 1) the Coalition of 2001-02 Legislators who enacted the California Voting Rights Act ("CVRA"); and 2) the Latino, Black and Asian Legislative Caucuses, representing 49 current Legislators. As a Caucus, we fully agree with those letters, similarly urging this Court to grant review and reverse the Court of Appeal's decision. So, we write separately to offer this Court our unique perspective to the issues presented. While each of our members could speak to the personal value and importance of the CVRA in their respective careers, the experience of our immediate past President, Monterey County Supervisor Luis Alejo, is particularly illustrative.

### **Lessons Learned from Watsonville, California – the Birthplace of the CVRA**

Assemblyman Alejo's career in public service illustrates how wrong the Court of Appeal's decision is. Prior to his service in the Legislature, he was elected to the Watsonville City Council. Assemblyman Alejo's career in public service would have never began if it weren't for the district-based elections for Watsonville's City Council. Though Watsonville now employs district-based elections, and has done so for over 25 years, that was not always the case. Rather, Watsonville's elimination of its previous at-large election system, in favor of district elections, was the result of a voting rights action. (See *Gomez v. City of Watsonville*, 863 F.2d 1407 (9<sup>th</sup> Cir. 1988).)

Document received by the CA Supreme Court.



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In *Watsonville*, the district court denied an injunction against at-large elections because, in the district court's view, the Latino community was insufficiently cohesive and too dispersed. The district court pointed to low Latino voter registration and turnout and stressed that Latinos outside the two majority-minority districts would be less able than under the at-large system to elect candidates of their choice if they were submerged in overwhelmingly Anglo districts. The reasoning of the district court mirrors that of the Court of Appeals in *Pico Neighborhood Association v. City of Santa Monica*.

The Ninth Circuit Court of Appeal had no problem reversing the district court, just as this Court should reverse the decision in *Pico*. The Ninth Circuit unanimously held that the district court's analysis that Latinos would not be able to elect their preferred candidate in district elections was flawed. Though "low voter registration and turnout" in *Watsonville* meant that Latinos were unlikely to be a majority of voters in any district, the Ninth Circuit held that should not preclude relief; rather, those facts "have often been considered evidence of minority voters' lack of ability to participate effectively in the political process." (*Gomez*, 863 F.2d at 1416 n.4.). The Ninth Circuit called it "sadly ironic" that the district court would allow *Watsonville*'s at-large system to continue the cycle of futility in *Watsonville* – perpetuating low voter registration and turnout due to the futility of voting in the at-large system. (*Id.* at 1414.)

As a result of that case, *Watsonville* has utilized district elections for now thirty years. Had *Watsonville* continued to elect its council at-large, the public service careers of Assemblyman Alejo and many others would have never begun. As the Superior Court's Statement of Decision in *Pico* demonstrates, Latinos in *Santa Monica* have cohesively supported excellent Latino candidates, only to have their public service careers snuffed out before they even started, as will be the case in other cities throughout California if this Court does not grant review.

#### **The Difficulties of Organizing Historically-Oppressed Minorities, and the Reluctance of Minority Groups and Leaders to Fight Against Some Discriminatory Actions**

The experiences of Assemblyman Alejo, growing up in the Pajaro Valley, also reveal another glaring deficiency in the Court of Appeal's decision in *Pico* – its unprecedented "litmus test" for claims of discrimination.

Assemblyman Alejo traveled with his parents and grandparents - migrant farmworkers who joined Cesar Chavez's Farmworker Rights Movement. As late as the 1960s, farmworkers labored in the fields under slave-like conditions. Most farmworkers lived in squalor due to the paltry wages they received – 1/3 had no toilet in their home, and 1/4 lived without running water. Carcinogenic pesticides were routinely sprayed while farmworkers labored in the fields, and so the life expectancy of a farmworker was only 49 years – more than twenty years less than the U.S. average.

Despite these atrocious conditions, farmworkers were reluctant to challenge their employers. When farmworkers had attempted to strike in the past, their employers replaced them with other more submissive workers – typically alternating between Latino and Filipino workers. Without even the meager wages they had earned, the farmworkers were unable to provide the basic necessities for their families. And violence was commonplace as well. When Ethel Kennedy and Coretta Scott King came to visit Cesar Chavez in a Monterey County jail, they were violently attacked by an anti-union mob. If the powerful agribusiness interests were willing to assault two famous widows, farmworkers understood their employers were all too eager to inflict violence upon them.

It is only through the herculean efforts of the United Farm Workers ("UFW"), and the charisma of an extraordinary leader in Cesar Chavez, that the farmworkers were able to succeed in organizing. But



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minority leaders are also subject to the same pressures as the minority communities they seek to empower. As history shows, UFW leaders and their families were beaten, jailed and threatened – in a way parallel to the violence inflicted upon African American leaders during the civil rights movement of the 1960's.

In our decades of advocating for exploited racial minorities, we have often found that there are several reasons that minority leaders or groups might not vocally oppose a decision or action that is nonetheless discriminatory. The minority groups or leaders might fear retribution from the powerful decisionmakers, or they might not believe their vocal advocacy will have a positive impact, or they might not have sufficient resources to fight every act of discrimination and thus must choose their battles. The decision to not vocally protest those decisions should not be taken as an indication that those decisions were not discriminatory; rather, it is just as likely an indication that a necessarily pragmatic strategy towards a larger goal does not permit minority leaders and groups to vocally oppose every act of discrimination when discrimination is so prevalent.

The Court of Appeal's "litmus test" – asking only whether contemporary minority leaders and groups vocally protested a decision as discriminatory – ignores the many reasons minority groups and leaders might choose to not vocally oppose certain discriminatory acts. Rather, it puts the onus on contemporary minority groups and leaders to vocally oppose discriminatory decisions by powerful officials, even when that opposition is futile, and denies racial minorities any redress in the absence of contemporary vocal opposition. Minority leaders and groups should not be required to put their lives and livelihoods at risk in order to ever be permitted to challenge discriminatory decisions in court.

### **Even the Support of Purported Minority Leaders Does Not Mean a Decision Is Not Discriminatory**

On July 24, 1970, with the UFW's landmark collective bargaining agreement with California's grape growers set to expire, the International Brotherhood of Teamsters entered into an agreement with California's largest agribusinesses. As reported by the newspapers of the day, several of which are attached here as Exhibit A, that agreement ended an economically-harmful strike and provided for a 30% hourly pay increase for farmworkers as well as an increase in fringe benefits for those employees.

If one were to look at those newspaper articles, one might believe that the Teamsters' agreement was a rousing success endorsed by the organized labor movement. After all, the Teamsters was among the largest and most successful labor unions, representing over 2 million workers in the United States. Applying the Court of Appeal's "litmus test," one might describe the Teamsters as "the people who knew best and cared most" about labor rights and the plight of working people, as the Court of Appeal described certain purported minority leaders of Santa Monica in 1946. Since the Teamsters publicly supported the agreement, and it provided improved wages for farmworkers, the Court of Appeal's "litmus test" would view that as "unanimous evidence" that the deal could not possibly have been intended to harm farmworkers.

Yet, as the California Supreme Court found two years later in *Englund v. Chavez* (1972) 8 Cal.3d 572, the Teamsters' deal with agribusiness was intended to *harm* farmworkers by precluding them from organizing under the UFW – the farmworkers' preferred representative that was demanding better wages and working conditions than the Teamsters' deal allowed. This Court saw through that ruse in *Englund v. Chavez* in holding that under those circumstances the Jurisdictional Strike Act could not support an injunction against the UFW's strike.

Moreover, though ignored by the Court of Appeal, the support of minority leaders in Santa Monica in



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1946 was not for the decision to offer voters only the option of at-large elections – the decision the Trial Court found to be tainted with discriminatory intent. Rather, minority leaders only supported the 1946 charter amendment once district elections were off the table, and the charter amendment became the better of two bad options: a three-member commission elected at-large, or a seven-member council elected at-large. This dynamic too is common in struggles for civil rights – minorities are often faced with the choice between the status quo and incremental progress, when they would prefer fundamental change. Minority leaders and civil rights groups must often be pragmatic if they are to achieve any progress at all; they should not be punished for accepting incremental progress when fundamental change appears out of reach.

\*\*\*\*\*

Over our collective careers, we have championed civil rights and voting rights. The CVRA and the Equal Protection clause of the California Constitution are two important tools for protecting those rights. The Court of Appeal's Opinion undermines those rights in a way that, if not reversed, will reverberate throughout California. We implore this Court to **grant review and reverse** the Court of Appeal's dangerous decision.

Respectfully,

**SUPERVISOR ALFREDO PEDROZA**  
President, Latino Caucus of California Counties

**SUPERVISOR LUIS A. ALEJO**  
Immediate Past President, Latino Caucus of California Counties

Cc: Honorable Carol A. Corrigan, Associate Justice  
Honorable Goodwin H. Liu, Associate Justice  
Honorable Mariano-Florentino Cuéllar, Associate Justice  
Honorable Leondra R. Kruger, Associate Justice  
Honorable Joshua P. Groban, Associate Justice

Document received by the CA Supreme Court.

# EXHIBIT A

# Salinas Agreement Ends Lettuce Strike

SALINAS (UPI)—An eight-day walkout which quadrupled the wholesale price of lettuce ended Thursday when striking Teamsters ratified a new three-year contract.

Les Hubbard of San Francisco, executive assistant of the Council of California Growers, said 350 truckers and "carton stitchers" approved the new pact by a vote of 154 to 127.

It calls for a pay increase of 95 cents an hour over the next three years, with an additional 35-cent raise in fringe benefits. At present, lettuce workers are paid \$3.30 an hour. Their pay will rise to \$4.25 per hour in the third year of the contract.

About 7,000 workers overall were affected by the strike, which began July 16 in the Salinas Valley, the nation's "salad bowl."

The walkout, which forced growers to plow lettuce back into the ground and drastically reduced vegetable shipments eastward, pushed the wholesale price of iceberg lettuce from \$1.25 to \$6 for a carton of 24 heads.



12 ~~Oakland Tribune~~ Fri., July 24, 1970

## Lettuce Workers Back in the Field

More than 6,000 workers returned to the Salinas Valley lettuce fields today, following the settlement of a Teamsters Union haulers' and packers' strike which has sent the price of iceberg lettuce skyrocketing.

Members of Teamsters Locals 890 and 912 voted 154 to 127 yesterday to accept a new three-year contract with the Grower - Shipper Vegetable Association which will boost their hourly pay 35 cents immediately to \$3.65. Additional 30-cent pay boosts will go into effect next July 15 and a year later.

The settlement package also includes 35-cent hourly raises in fringe benefits.

The strike, which began July 16, halted most of the movement of iceberg head lettuce from 15,000 acres which produce 80 per cent of that crop for the country. Fields are now maturing at the rate of 300 acres a day.

Shipments of broccoli, celery,

cauliflower and carrots also were curtailed by the walkout which was costing growers an estimated \$1 million a day.

Wholesale prices of iceberg lettuce tripled during the walkout, but retail prices in the Bay Area rose only slightly as supplies came in from growers in areas not struck.

Also, the largest lettuce grower, Bud Antle Co., had reached agreement earlier with the union and continued shipping during the strike.

Meanwhile, in Fillmore, farm labor leader Cesar Chavez called for a National Labor Relations Board election to determine whether 2,000 Ventura County citrus

workers should be represented by his United Farm Workers Organizing Committee.

About 600 of the workers went on strike earlier this week. Growers' offers to meet the striking workers' demands for annual paid vacations and

setting piece rates before picking begins were rejected at a meeting of the strikers Wednesday night.

The walkout began at the and P Growers' orange grove last week in a dispute over piece rates.

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THE SACRAMENTO BEE

Friday, July 24, 1970

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# Teamsters End Lettuce Crop Strike

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SALINAS (AP) — Settlement of a one-week strike of nearly 400 Teamsters Union members sent more than 6,000 workers back to jobs today harvesting Salinas and Watsonville area lettuce crops, the nation's main supply.

The walkout, begun July 16, ended Thursday afternoon when members of Teamster Locals 890 and 912 voted 154-127 to accept a new contract raising their hourly pay of \$3.30 by 35 cents now and 30 cents more

in each of the next two years.

An additional 35 cents hourly in fringe benefits, such as pensions and health insurance, was provided over the three-year period from July 15.

The walkout affected about 4,500 field workers and 1,500 workers in coolers and packing operations.

About 60 growers, producing 80 per cent of the nation's iceberg head lettuce from 15,000 acres, were involved.

Shipments of broccoli cel-

ery, cauliflower and carrots also were halted by the strike, which growers estimated was costing up to \$1 million a day.

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## Union Okays Pact Ending Lettuce Strike

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Also, the largest of the lettuce growers, Bud Antle Co., had reached contract terms with the union earlier and continued shipping.

**PROOF OF SERVICE**

*STATE OF CALIFORNIA, COUNTY OF LOS ANGELES*

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 410 West Arden Avenue, Suite 203, Glendale, California 91203.

On October 21, 2020, I served the following document(s) described as: **LATINO CAUCUS OF CALIFORNIA COUNTIES' AMICUS CURIAE LETTER IN SUPPORT OF PETITION FOR REVIEW** on interested parties in this action as follows:

- Attorney Attorney General - Los Angeles Office - [dana.ali@doj.ca.gov](mailto:dana.ali@doj.ca.gov)
- Christian Contreras - [christian@carrazcolawapc.com](mailto:christian@carrazcolawapc.com)
- Dale Galipo - [dalekgalipo@yahoo.com](mailto:dalekgalipo@yahoo.com)
- Dan Stormer - [dstormer@hadsellstormer.com](mailto:dstormer@hadsellstormer.com)
- Daniel R. Adler - [dadler@gibsondunn.com](mailto:dadler@gibsondunn.com)
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- Tiaunia Henry - [thenry@gibsondunn.com](mailto:thenry@gibsondunn.com)
- Todd Bonder - [tbonder@rmslaw.com](mailto:tbonder@rmslaw.com)

**[X] SERVICE VIA TRUEFILING ELECTRONIC SERVICE SYSTEM**

I transmitted via the Internet true copies of the above-listed documents through the Court's Mandatory Electronic Filing System via the TrueFiling Portal, and concurrently caused the above-listed documents to be sent to the recipients listed immediately above, pursuant to the E-Service List maintained by and as it exists on that database.

**[X] STATE**

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 21, at Glendale, California.



Suzana Solis

Document received by the CA Supreme Court.